

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

LORNE PERNELL SIMON,

Petitioner,

v.

CIVIL ACTION NO. 5:05-cv-00870

CHARLES T. FELTS, Warden,

Respondent.

**ORDER**


By Standing Order entered on November 1, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“PF&R”]. Magistrate Judge VanDervort filed his PF&R on September 25, 2006 [Docket 8]. In that filing, the magistrate judge recommended that this Court dismiss Petitioner’s §2241 Application [Docket 1] as moot, and remove this matter from the Court’s docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort’s PF&R were due by October 13, 2006, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. Civ. P. 72(b). No objections have been filed.

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the Court adopts the findings and recommendations contained therein. Accordingly, the Court hereby **DISMISSES** Petitioner's §2241 Application [Docket 1] as moot, and **DIRECTS** the Clerk to remove this action from the Court's active docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to all counsel of record, Petitioner, *pro se*, and Magistrate Judge VanDervort.

ENTER: November 6, 2006

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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE